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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,080	06/02/2005	Jacob Nucsink	903/136 PCT/US	8088

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/537,080	Applicant(s) NUESINK ET AL.	
	Examiner Alicia M. Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the output drive shaft being at right angles to the axis of rotation of the brush element, as per claim 18, and the adjustable frame, as per claim 22, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-19 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Quillen 4,936,886.

Quillen discloses a rotary device for removing weeds from joints in a paved area, comprising:

an elongate frame (the entire chassis including parts 50, 20, 22, 28) which is provided with a handle (37);

a drive unit (40) mounted on the frame (50, 20, 22, 28);

a brush element (54) which is connected to the drive unit (40) in such a manner that it can be driven in rotation about an axis of rotation which extends substantially in a direction which is transverse with respect to the frame (50, 20, 22, 28); and

a guide wheel (12) coupled to the frame (50, 20, 22, 28), the guide wheel (12) and the brush element (54) being provided on either side of the bottom end of the frame (50, 20, 22, 28, see Figure 1);

wherein the distance (x) between the guide wheel (12) and a center axis of the frame (50, 20, 22, 28) is at least double the distance (y) between the brush element (54) and the center axis of the frame (50, 20, 22, 28);

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wherein the centre of gravity (z) of the drive unit (40) is positioned closer to the brush element (54) than to the guide wheel (12);

wherein the distance between the guide wheel (12) and the centre of gravity (z) of the drive unit (40) is at least double the distance between the brush element (54) and the centre of gravity (z) of the drive unit (40);

wherein the distance (x) between the guide wheel (12) and the centre axis of the frame (50, 20, 22, 28) is greater than 10 centimetres;

wherein the distance (y) between the brush element (54) and the centre axis of the frame (50, 20, 22, 28) is less than 5 centimetres;

wherein the output drive shaft (52) of the drive unit (40) is positioned substantially at right angles to the axis of rotation (81) of the brush element (54);

wherein the output drive shaft (52) of the drive unit (40), as seen in the transverse direction, extends substantially at the centre axis of the frame (50, 20, 22, 28);

wherein the frame (50, 20, 22, 28) is of adjustable length (when the shaft 50 is pulled through the adjustment mechanism 62, 63);

wherein the distance (x+y) between the guide wheel (12) and the brush element (54) is greater than 15 centimetres;

wherein the drive unit (40) is provided in the vicinity of the bottom end of the frame (50, 20, 22, 28), and in particular has its output drive shaft (52) ending at the axis of rotation (81) of the brush element (54).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Quillen in view of Fujikawa et al. 5,165,485.

The device is disclosed as applied above. However, Quillen fails to disclose a safety guard which is provided around part of the brush element, which safety guard extends over more than half the outer circumference of the brush element;

wherein the safety guard is provided, on its rear-facing side, with a mud flap.

Fujikawa et al. discloses a similar device including a safety guard (105A) which is provided around part of the brush element (105), which safety guard (105A) extends over more than half the outer circumference of the brush element (105);

wherein the safety guard (105A) is provided, on its rear-facing side, with a mud flap (unnumbered, see rear extending plate in from cover 105A in Figures 1 and 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the cover of Fujikawa et al. on the edger of Quillen in order to cover a portion of the rotary brush.

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Conclusion

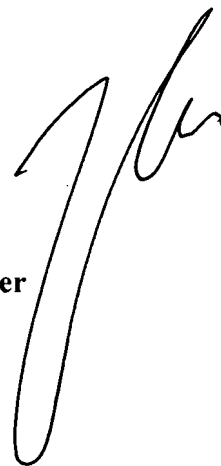
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Asbury, Vaughan and Marshall et al. have been cited as of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Friday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 571-272-3600. The fax number for this Group is 571-273-8300.

FOY
Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671



AMT
June 25, 2007